ORIGINAL

ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
PAUL J. FELDMAN
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
SUSAN A. MARSHALL*
HARRY C. MARTIN
RAYMOND J. QUIANZON
LEONARD R. RAISH
JAMES P. RILEY
ALISON J. SHAPIRO
KATHLEEN VICTORY
JENNIFER DINE WAGNER*
HOWARD M. WEISS
ZHAO XIAOHUA*

* NOT ADMITTED IN VIRGINIA

FLETCHER, HEALD & HILDRETH, P.L.C.

ATTORNEYS AT LAW
11th FLOOR, 1300 NORTH 17th STREET
ARLINGTON, VIRGINIA 22209-3801

(703) 812-0400
TELECOPIER
(703) 812-0486
INTERNET
www.fhh-telcomlaw.com

RETIRED MEMBERS
RICHARD HILDRETH
GEORGE PETRUTSAS

CONSULTANT FOR INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS
SHELDON J. KRYS
U. S. AMBASSADOR (ret.)

OF COUNSEL
EDWARD A. CAINE*
DONALD J. EVANS*
MITCHELL LAZARUS
EDWARD S. O'NEILL*

WRITER'S DIRECT

(703) 812-0403
feldman@fhh-telcomlaw.com

February 26, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND
Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW, Room TWB204
Washington, D.C. 20554

Re: CC Docket No. 96-45
***Ex Parte* Letter from**
Roseville Telephone Company

Dear Ms. Salas:

Attached, please find a copy of a letter delivered today to Ms. Dorothy Attwood, Chief of the Common Carrier Bureau, regarding a pending Petition for Reconsideration of the Commission's 9th Report and Order in CC Docket 96-45, and a related Petition for Limited Waiver, both filed by Roseville Telephone Company. Please include the attached letter in CC Docket No. 96-45.

Please contact me if you have any questions.

Very truly yours,

Paul Feldman

Paul J. Feldman
Counsel for Roseville Telephone Company

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Enclosures

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ANN BAVENDER*
ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
PAUL J. FELDMAN
FRANK R. JAZZO
ANDREW S. KERSTING
EUGENE M. LAWSON, JR.
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FLETCHER, HEALD & HILDRETH, P.L.C.

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WRITER'S DIRECT
(703) 812-0403
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FEB 26 2001
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

<u>Via Hand Delivery</u>
Ms. Dorothy Attwood
Chief – Common Carrier Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: CC Docket 96-45
Roseville Telephone Company
Petition for Reconsideration and
Petition for Limited Waiver

Dear Ms. Attwood:

Thank you for taking the time to meet with representatives of Roseville Telephone Company on February 1, 2001 to discuss our Petition for Reconsideration to the FCC's 9th Report and Order in CC Docket 96-45 filed in December of 1999, and our related Petition for Limited Waiver filed in November of 2000. This letter responds to one of the questions raised during that meeting regarding the use of 200,000 lines as a break-point between large and small carriers for federal high cost support regulation.

As you know, our filings deal with the dividing point between "large" and "small" telephone companies for purposes of the Commission's new "non-rural" universal service support mechanism and proxy cost model. In the 9th R&O, the Commission used the "rural/non-rural" definition as contained in the Telecommunications Act of 1996 for this dividing point. This distinction places LEC study areas with over 100,000 lines in the "large" company category for application of the new mechanism and model. In our filings, Roseville has suggested that the Commission should also recognize the fact that under the universal service rules study areas with less than 200,000 lines have historically received substantially more support for their high costs than companies with more than 200,000 lines.

A question was raised during our meeting regarding the genesis of the 200,000 line figure in the current rules. Following is a brief summary of what we have learned from researching prior Joint Board and Commission decisions.

Prior to 1984, the rules provided a single schedule for high cost support that was not dependent upon the size of the carrier. In a 1984 decision the Joint Board recommended that the Commission "...modify the provisions for high cost assistance to direct more aid to smaller companies and those with higher cost levels."[1] In explaining its motives for seeking to differentiate the smaller companies the Joint Board stated:

> "Among other things, we requested comments on whether large telephone companies had more flexibility than small companies to recover above average costs without an adverse effect on residential subscribers."[2]

The decision went on to propose two different support schedules – one for companies with less than 50,000 lines, and another, providing proportionally less support, for companies with over 50,000 lines.[3]

In 1987, the Joint Board issued another recommendation decision proposing further changes in the support formula. In this decision the Joint Board states:

> "Further, we recommend that the Commission retarget the present formula for high cost assistance to direct more assistance to smaller and medium-sized LECs."[4]

The plan recommended by the Joint Board and adopted by the Commission in this inquiry was a modeled after the "Unity 1-A" plan that was developed by a coalition of LEC trade associations. This plan instituted the200,000 line break-point between the "large" and "small" companies that still exists in today's rules. It further reduced the amount of funding provided to large companies and increased the proportion of funds going to the smaller companies. In recommending that the plan be adopted the Joint Board stated:

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[1] Joint Board Recommended Decision and Order in CC Dockets 78-72 and 80-286, 57 RR 2d 267 (1984) at Paragraph 2.
[2] *Id.* at para. 50.
[3] *Id.* at para. 56.
[4] Joint Board Recommended Decision and Order in CC Dockets No. 78-72 and 80-286, 2 FCC Rcd 2324 (1987), at paragraph 6.

> "We support the proposal to retarget the current high cost fund as outlined in the Unity 1-A proposal. Retargeting the high cost fund as now recommended will provide an additional interstate expense allocation for the small companies most in need of assistance and direct less assistance to the larger LECs, i.e., carriers with over 200,000 access lines, that have more flexibility in dealing with above average costs. In light of this retargeting of assistance toward smaller companies, we can reasonably conclude that this new formula, while perhaps not perfect, represents an improvement over the existing high cost assistance formula."[5]

Thus, the concept of different funding schemes for large and small companies has been a fixture of the Commission's rules since 1984. Since 1987, 200,000 lines has been the standard for the dividing point between the large and small companies. Under the current Part 36 rules small companies with under 200,000 lines receive support for 65% of their costs over 115% of the nationwide average, while large companies receive only 10%, or six and one-half times less. The new "non-rural" mechanism established by the 9th R&O redefines the large/small demarcation point to 100,000 lines. As we discussed during our meeting, Roseville now finds itself redefined as a large company and subject to funding rules predicated on a cost model designed for companies hundreds of times its size.

In approving the 1987 allocation formula increasing support for smaller companies, the Commission made an important finding:

> "While the actual flow-through of these substantial savings in the intrastate jurisdiction will be determined by the local exchange carriers and state regulators, it should be clear that this increase in the allocation of loop costs to the interstate jurisdiction should be used by these high cost companies through either decreasing local service rates or maintaining the current rates instead of increasing these rates in the future."[6]

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[5] *Id.* at para. 86.

[6] Report and Order in CC Dockets 78-72 and 80-286, 2 FCC Rcd 2953 (1987), at paragraph 36.

As we have stated in our earlier filings in support of our PFR and waiver, the proportionately larger interstate allocation of high costs by the smaller carriers, including Roseville, are reflected in lower intrastate rates. We believe that the higher interstate allocation of costs for the small carriers was one of the reasons why the Commission sought to consider universal service reforms for the smaller carriers separately from its consideration of the larger carriers, and only after receiving input from the Rural Task Force. We believe that Roseville, as a rate of return carrier with only 123,000 lines, has more in common with the universe of "rural" carriers than it does with the large price cap holding companies. We believe that the public interest will be best served by considering universal service and access reform for Roseville through the Commission's consideration of the RTF proposal and the MAG plan.

We hope that this information assists you in your consideration of our filings. If we can provide additional information or assistance, please feel free to call.

Sincerely,

Paul Feldman

Paul J. Feldman
Glenn Brown

PJF:jpg

cc: Carol Mattey, Esq.
Katherine Schroder, Esq.
Jack Zinman, Esq.
Magalie R. Salas, Esq.